



Comptroller General  
of the United States  
Washington, D.C. 20548

## Decision

**Matter of:** Ferg N Sons Plastics, Inc.  
**File:** B-257069  
**Date:** May 11, 1994

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### DECISION

Ferg N Sons Plastics, Inc. protests the rejection of its bid under solicitation No. 7FXG-D4-7326-N, issued by the General Services Administration, and the subsequent determination by the Small Business Administration (SBA) that Ferg N Sons is other than a small business.

Ferg N Sons appealed this determination, and it was reversed. However, the agency made award to another firm while the appeal was pending before the SBA. Ferg N Sons claims this was improper.

Under the Federal Acquisition Regulation (FAR) § 19.302(h)(1), when a size status protest is filed, a contracting officer may not make an award until the SBA Regional Administrator has issued a determination or until 10 working days after SBA's receipt of the protest, whichever occurs first. There is no requirement, however, that a contracting officer withhold a contract award until the SBA renders a decision on an appeal from an SBA regional office size determination FAR § 19.302(i); Lion Apparel, Inc., B-235511, Aug. 15, 1989, 89-2 CPD ¶ 142; DJW Servs., B-225587.2, Sept. 29, 1987, 87-2 CPD ¶ 312. Moreover, an SBA ruling on the appeal does not affect the award of a contract if it is received by the contracting officer after award. FAR § 19.302(i).

The protest is dismissed.

A handwritten signature in cursive script, reading "Robert H. Hunter", is written over the printed name.

Robert H. Hunter  
Acting Senior Associate General Counsel